



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/829,806 | 04/10/2001 | William L. Thomas | UV-196 | 9835 |

1473 7590 10/19/2006

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NY 10020-1105

EXAMINER

SHANG, ANNAN Q

ART UNIT PAPER NUMBER

2623

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,806

Applicant(s)

THOMAS ET AL.

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 84-183 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 84-183 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>8/03/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/03/06 has been entered.

Response to Arguments

2. Applicant's arguments/amendment with respect to claims 84-183 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 84-90, 93-115, 118-140, 143-165 and 168-183 rejected under 35 U.S.C. 102(e) as being anticipated by **Gagnon et al (6,522,342)**, applicant argues that the prior art of records Gagon "...fails to show or suggest one or more media group options that indicate the media available to the user without indicating the content, title or source of the media..."

In responses, Examiner disagrees. Examiner notes applicant's arguments, however, Gagon displays media groups, such as, ABC, DirectTV, MTV, etc., without displaying at least the content or title (fig.5), and where a user can preview to select a title (fig.6). The claimed limitation requires the alternative, i.e., without indicating any of the content, title or source of the media. Gagon further meets the claimed limitations,

"...and where unscheduled media includes media that is not provided at a scheduled time and is available for viewing at a time selected by the user..." since web related data is unscheduled media and available to the user at a time selected by the user, i.e., at anytime a user interacts to the website. Hence applicant's arguments are not persuasive. Gagon reference meets all the amended independent claim limitations and their dependent claims including the 103(a) rejections of claims 91-92, 116-117, 141-142 and 166-167 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gagnon et al (6,522,342)** in view of **Hendricks et al (5,798,785)** as discussed below in the office action. **This Office Action made Final.**

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 84-90, 93-115, 118-140, 143-165 and 168-183 are rejected under 35 U.S.C. 102(e) as being anticipated by **Gagnon et al (6,522,342)**.

As to claims 84-86, note the **Gagnon** reference figures 1-5, discloses graphical tuning bar for multi-program data stream and further discloses method for allowing a

user of an interactive media guide to access media provided by a plurality of media sources, the method comprising:

Providing one or more media group options (figs.1, Computing Unit 'CPU' 132 of Direct-to-Home 'DTH' 100, col.8, lines 36-60 and col.9, lines 39-64), where the media group options indicate media available to the user without indicating any of the content, title, or source of the media (figs.2, 5-7, col.10, line 64-col.11, line 10, col.12, line 28-col.13, line 29 and line 30-col.14, line 24), note that the media indicators of fig.5 and other figures do not indicate any content, title or source of media;

Providing a plurality of media indicators (figs.2, 5-7 and col.13, lines 30-col.14, line 1+) in response to the user selecting a media group option, where the media indicators are associated with the selected media group option, where the plurality of media indicators identify media provided by at least one of the plurality of media sources, and where the plurality of media indicators includes media indicator for scheduled media (figs.12, 14, Direct TV, MTV, CBS, etc., col.8, lines 20-35 and col.17, line 56-col.18, line 25) and a second media indicator for unscheduled (Web sites, On-line sites, etc.,) and where unscheduled media includes media that is provided at a scheduled time and available for viewing at a time selected by the user (col.13, lines 30-col.14, line 67 and col.16, line 65-col.18, line 25); note that at anytime a user interacts to a website the user is provided with unscheduled data, and

Performing an action associated with a media indicator in response to the user selecting a media indicator from the plurality of media indicators, providing the media indicator that is identified by the selected media indicator in response to the user

Art Unit: 2623

selecting the media indicator and indicating the number of presently available media that are associated with a media group option (col.13, lines 30-col.14, line 67 and col.15, lines 1-37 and col.16, line 65-col.18, line 25).

As to claims 87-89, Gagnon further discloses where the media group options, are defined by the user, meet user-defined criteria and where the user-defined criteria is a user-defined search (col.12, line 46-col.13, line 29 and line 55-col.14, line 67).

As to claim 90, Gagnon further discloses where the plurality of media group options comprises at least one of a recent favorites media group option, an old favorites media group option, a recommendations media group option, browsing media group option, special interest media group option, a categories media group option, or a preview scan media group option (col.12, line 46-col.13, line 29 and line 55-col.14, line 67).

As to claim 93-96, Gagnon further discloses where the plurality of media indicators are associated with browsing media group option and are presented in response to the user selecting the browsing media group option, further comprising displaying in a video window content corresponding to the selected media indicator associated with the browsing media group option in response to the user selecting a media indicator associated with the browsing media group option, where the video content is current available, where the video is a video clip and the video content is a video trailer (col.12, line 46-col.13, line 29 and line 55-col.14, line 67).

As to claim 97-99, Gagnon further discloses displaying a plurality of media sub-group options associated with the categories media group option in response to the

user selecting the categories media option; and displaying the plurality of media indicators in response to the user selecting a media sub-group option, where the media indicators are associated with the selected media group option and indicates the number of media indicators that are associated with each of the plurality of media sub-group options and comprises sports sub-group option, popular shows, a premier and a group sub-group option (figs 7, 9, 11-16, col.12, line 46-col.13, line 29, line 55-col.14, line 67 and col.17, line 15-col.19, line 1+).

As to claim 100, Gagnon further discloses displaying the plurality of media indicators in response to the user selecting the preview scan (fig.13, Browsing) media group option, where the plurality of media indicators are associated with the preview scan media group option, and displaying in a video window video content corresponding to a selected media indicator in response to the user selecting a media indicator associated with the preview scan media group option (figs 7, 9, 11-16, col.12, line 46-col.13, line 29, line 55-col.14, line 67 and col.17, line 15-col.19, line 1+).

As to claim 101, Gagnon further discloses obtaining media from a local file server; a remote file server, a pre-recorded videotape, a television station or audio station (col.8, lines 53-60 and col.9, line 30-col.10, line 18).

Claim 102 is met as previously discussed with respect to claim 97.

Claim 103 is met as previously discussed with respect to claim 98.

As to claim 104, Gagnon further discloses where the plurality of media sub-group options indicate, presently available media by indicating the content, title or source of

Art Unit: 2623

the media (figs 7, 9, 11-16, col.12, line 46-col.13, line 29, line 55-col.14, line 67 and col.17, line 15-col.19, line 1+).

Claim 105 is met as previously discussed with respect to claim 100.

Claim 106 is met as previously discussed with respect to claim 87-89.

As to claim 107-108, Gagnon further discloses where the media sub-group options are displayed according to criteria defined by a remote service created dynamically (col.8, lines 53-60 and col.9, line 30-col.10, line 18).

As to claims 109-111, the claimed "an interactive media guide system for allowing a user to access media...comprising..." contains the same structural elements that were discussed in the rejection of claims 84-86.

Claims 112-114 are met as previously discussed with respect to claims 87-89.

Claim 115 is met as previously discussed with respect to claim 90.

Claims 118-121 are met as previously discussed with respect to claims 93-96.

Claims 122-124 are met as previously discussed with respect to claims 97-99.

Claim 125 is met as previously discussed with respect to claim 100.

Claim 126 is met as previously discussed with respect to claim 101.

Claim 127 is met as previously discussed with respect to claim 97.

Claim 128 is met as previously discussed with respect to claim 98.

Claim 129 is met as previously discussed with respect to claim 104.

Claim 130 is met as previously discussed with respect to claim 100.

Claim 131 is met as previously discussed with respect to claims 87-89.

Claims 132-133 are met as previously discussed with respect to claims 107-108.

As to claims 134-136, the claimed “an interactive media guide system for allowing user to access media...comprising...” contains the same structural elements that were discussed in the rejection of claims 84-86.

Claims 137-139 are met as previously discussed with respect to claims 87-89.

Claim 140 is met as previously discussed with respect to claim 90.

Claims 143-146 are met as previously discussed with respect to claims 93-96.

Claims 147-149 are met as previously discussed with respect to claims 97-99.

Claim 150 is met as previously discussed with respect to claim 100.

Claim 151 is met as previously discussed with respect to claim 101.

Claim 152 is met as previously discussed with respect to claim 97.

Claim 153 is met as previously discussed with respect to claim 98.

Claim 154 is met as previously discussed with respect to claim 104.

Claim 155 is met as previously discussed with respect to claim 100.

Claim 156 is met as previously discussed with respect to claims 87-89.

Claims 157-158 are met as previously discussed with respect to claims 107-108.

As to claims 159-161, the claimed “an interactive media guide system for allowing user to access media...comprising...” contains the same structural elements that were discussed in the rejection of claims 84-86.

Claims 162-164 are met as previously discussed with respect to claims 87-89.

Claim 165 is met as previously discussed with respect to claim 90.

Claims 168-171 are met as previously discussed with respect to claims 93-96.

Claims 172-174 are met as previously discussed with respect to claims 97-99.

Claim 175 is met as previously discussed with respect to claim 100.

Claim 176 is met as previously discussed with respect to claim 101.

Claim 177 is met as previously discussed with respect to claim 97.

Claim 178 is met as previously discussed with respect to claim 98.

Claim 179 is met as previously discussed with respect to claim 104.

Claim 180 is met as previously discussed with respect to claim 100.

Claim 181 is met as previously discussed with respect to claims 87-89.

Claims 182-183 are met as previously discussed with respect to claims 107-108.

5. Claims 91-92, 116-117, 141-142 and 166-167 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gagnon et al (6,522,342)** as applied to claims 90, 115, 140 and 165 above, and further in view of **Hendricks et al (5,798,785)**.

As to claims 91-92, 116-117, 141-142 and 166-167, Gagnon teach providing media indicators in response to the user selecting a media group option and further teach providing promotional media indicators in response to the user selecting the media group option (col.15, lines 30-37, col.16, lines 59-64, col.19, lines 34-63 and col.21, lines 29-41), but fail to explicitly teach recommendations media group option.

However, in the same field of endeavor, Hendricks teaches recommendations (suggesting of programs) media group options (col.28, line 66-col.29, line 25, lines 49-65 and col.33, line 66-col.34, line 19).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Hendricks into the system of Gagnon to

recommend or suggest programs, channels, media groups, etc., to the user and provide alternate services to the user, in situation where the requested service is unavailable.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.



Annan Q. Shang



CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
BY CENTER 2600